

The Madison County Board of Zoning Appeals met on the above date at 9:00 A.M. with, Mary Jane Baker, Chairman, presiding.

Members Present: Mary Jane Baker, Bill Maxwell, Rick Durham, and Bill Hobbs.

Members Absent: None.

Also Present: Cory Wilson, Executive Director, Judy King, Plan Reviewer, Gerald Shine, Jr., Attorney, and Beverly Guignet, Secretary.

CURRENT BUSINESS

1. Roll call was taken with all members being present.
2. The minutes of the preceding meetings were distributed to each member prior to the meeting. Member Durham made a motion to approve the minutes. Member Hobbs seconded the motion. The vote was unanimous in favor of the motion.

Continued Petitions

1.

Petition:	Tabled at the September 22 nd Meeting		
	2009-V-009	Variance	Zoning: AG
Address:	2800 East US Hwy 36, Markleville		
Location:	North side of Hwy 36, approximately ¼ mile west of CR 300 East		
Petitioner:	Keith J. Bronnenberg		
Request:	Variance of development standards to provide for the construction of a 1,280 square foot pole barn located 10 feet from the West property line (minimum of 25 foot side setback required).		

Director Wilson reminded the Board this was continued as the Board wanted more information concerning the location of the septic fingers. At the time of the staff report, no new information had been submitted.

Staff continues to recommend denial. Petitioners want to build a structure ten feet from the west property line. Staff continues to state that sufficient area exists to build the structure within ordinance standards without the need for a variance.

Mr. and Mrs. Bronnenberg and Paul Ponsler, Contractor were present representing this request.

Mr. Ponsler informed the Board Mr. Bronnenberg has obtained a permit from the Start Highway Department for a new driveway cut on the west side of the property. There is a cistern on the east side where the existing drive is located. Because of the heavy equipment that drives over the cistern it could collapse. Because of that and also with placing the new structure on the west side and close to the house they would have easy access to the building. Further, the property owners cited their age as a reason for the structures location near the existing dwelling.

The Bronnenberg's have talked to their neighbors on the west side and they have no objections as to where they would like to build the new structure. The petitioners are willing to work with a 15-foot setback as a compromise.

(Mr. Ponsler presented some pictures and a drawing which are on file in the Plan Commission office).

There were no remonstrators present.

Member Stewart move to approve Petition #2009-V-009 based on the landowners to the west who had no objections and with the following stipulations; the variance shall be for a ten foot relief (15 feet from property line) and there shall be no living quarters in the proposed barn.

Member Maxwell seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2009-V-009 was approved.**

New Business

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| 1. Petition: | 2009-V-011 | Variance | Zoning: AG |
| Address: | 3785 East Gemini Drive, Alexandria | | |
| Location: | CR 600 N to CR 350 East, North to East Gemini Drive | | |
| Petitioner: | Richard Sigler, Jr. | | |
| Request: | Requesting: Variance of the Development Standard to provide for a 7' 2" privacy fence located in the front yard. This parcel is a corner lot; therefore it has 2 front and 2 side setbacks (Section 6.25, FW-03 of the Ordinance states in an AG zoned district a fence is prohibited in the front yard). | | |

Director Wilson told the Board proper notification was given.

Richard Sigler, Jr., 3785 East Gemini Drive.

Mr. Sigler informed the Board the fence is not an obstacle for children or traffic. There had been a privacy fence that was there for ten years which was 7' 2" with a portion chain link. The new fence does not go to the end of the property. The fence was rebuilt in the same location as the previous

The petitioner stated that there had been no issue with the previous fence and wants a new one to prevent the kids from trespassing thru his property to access the fields to the south and east.

Several of the Board Members were questioning the location right of way and if the Moonsville Mini Ranch was a platted subdivision. Also questions how staff became aware of the fence.

Director Wilson told the Board this was presented to staff as a violation.

Director Wilson stated Staff **recommends denial** of the variance request.

- ◇ The subject site is an 8.376-acre parcel located in the Moonsville area of Richland Township. The property is zoned agriculture (AG) and is improved with a single-dwelling and accessory structure. Although the area is developed as a single-family dwelling subdivision, the Comprehensive Plan recommends the development of farming operations and activities. This request would provide for the construction 7'2" fence located in the front yard along Gemini Drive.
- ◇ According to the *Madison County Land Use & Development Code*, fences are not permitted to exceed 3.5 feet when located in a front yard. The reason for this provision is to ensure that neighboring residents may enjoy unobstructed views from their front yards and prevents a "canyon affect" from developing. Further, the safety of an area can be greatly diminished when tall fences are allowed to be erected within front yards making it difficult for motorists to see children playing or vehicles backing out of driveways. This is especially true in platted subdivisions similar to the one the subject site is located



FINDINGS OF FACT

1. *Would the approval be injurious to the public health, safety, morals, and general welfare of the community?* Yes, a solid fence of this height in a front yard would make it difficult for on-coming traffic to identify vehicles backing out of a drive-way or children playing.

2. *Will the requirements and development standards set forth in the district for such exception be met?* No. the fence would/is more than double the height permitted by the Ordinance.
3. *Will the proposed use subvert and permanently injure other property or uses in the same district and vicinity?* Yes, neighboring residents would have an obstructed view from their front yards and make identifying children playing and vehicles difficult.
4. *Will the proposed use be consistent with the character of the zoning district and the Comprehensive (Comp) Plan?* No, there are no other fences this tall located in the area.

There were no remonstrators present.

After some discussion Member Durham made a motion, seconded by Member Maxwell to continue Petition #2009-V-011 until the November meeting. This is being continued as the Board Members want to see the plat and see what the actual right of way is and if the fence is in the right of way.

The vote was unanimous in favor of the motion. **Petition #2009-V-011 has been continued until the November meeting.**

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| 2. Petition: | 2009-V-012 & 2009-V-013 Variances Zoning: CR |
| Address: | 4011 West CR 200 South |
| Location: | South side of CR 200 South between CR 400 West and CR 500 West |
| Petitioner: | Dave Montgomery for Bethel United Methodist Church |
| Request: | A Variance of the Development Standards to provide for off street parking area located 24 feet from the right of way of CR-400 West (Layton Rd) and 54 feet from the right of way of CR-200 South (38 th St), (Minimum 100 foot setback required from all Collector Roads |

Brain Days, 3815 Park Road, Anderson, IN, Trustee for the Church and Dave Montgomery, Architect were present representing the petitioners.

Mr. Days told the Board the east wing of the building was struck by a car and the building sustained heavy damage due to a resulting fire. The entire church received damage but the east wing was the worst and was torn down. The church considered rebuilding on the existing footprint but decided a new design would help the building operate more efficiently. The new structure will not encroach into the setback as the previous structure. To create the off street parking it will be necessary to have it located 24 feet from the right of way of Co. Rd. 400W and 54 feet from the right of way of Co. Rd. 200S.

Director Wilson told the Board he had spoken with Chuck Leser, County Highway Engineer and asked if there were any immediate plans to improve either Layton Road of 38th Street. Mr. Leser stated that there are no immediate plans other than repairing within the next five years.

Staff has determined this proposal is an improvement over the previous site layout.

There were no remonstrators present.

Member Maxwell moved to approve Petition #2009-V-012 for the relief of 13 feet off of 400W and 18 feet relief off of 200S and per staff recommendation. This does not include the canopy. They are to come back next month for the canopy which will make this variance a relief of 54 feet instead of the 13 feet. .

Member Hobbs seconded the motion. The vote was unanimous in favor of the motion. **Petition #2009-V-012 was approved.**

Member Maxwell made a motion to approve Petition #2009-V-013 for relief off of 400W of zero feet and 46 feet off of 200S as per staff recommendation.

Member Hobbs seconded the motion.

The vote was unanimous in favor of the motion. **Petition #2009-V-013 was approved.**

3. Miscellaneous - Nothing was presented.

Member Hobbs made a motion, seconded by Member Maxwell to adjourn. The vote was unanimous in favor of the motion.

Adjournment: 10:32:00 A.M.

Mary Jane Baker, Chairman

Beverly Guignet, Secretary